

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

UNITED STATES OF AMERICA)	
)	
V.)	NO. 2:13-CR-04
)	
DAVID WAYNE GRIGSBY)	

REPORT AND RECOMMENDATION

Defendant has filed a motion to dismiss the indictment. (Doc. 21). This motion has been referred to the magistrate judge pursuant to the standing order of this Court and 28 U.S.C. § 636. A hearing was held on April 3, 2013.

Defendant is charged with committing perjury before the Grand Jury. Each of the three counts of the Indictment allege that defendant gave a false answer to a particular question. Defendant has filed a motion to dismiss the Indictment, arguing that the questions which underlie each count of the Indictment were “fundamentally ambiguous,” or compound, or were so inartfully asked by the questioner (Assistant United States Attorney M. Neil Smith) that the court should hold as a matter of law that the defendant could not have understood the question and therefore could have not lied in responding to it.

There is no need to recite the questions or the answers; they may be read at page 2 of the United States’ response, Document 23. The questions are not ambiguous when read in context; they are not “compound questions,” and neither was the grammar or syntax of the questions such that a person of even limited intelligence would have been unable to

understand the clear import of the questions. Certainly it is a jury question.

It is respectfully recommended that defendant's motion to dismiss the Indictment, (Doc. 21) be denied.¹

Respectfully submitted,

s/ Dennis H. Inman
United States Magistrate Judge

¹Any objections to this report and recommendation must be filed within fourteen (14) days of its service or further appeal will be waived. 28 U.S.C. § 636(b)(1).